IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO.16658 of 2000

Between:

Mr. Kishan Singh, S/o. Laxman Singh, aged 61 years,
Occ: Retired pensioner, R/o. H.No.4-1-83/4, Bhavani Gardens,
Tellapur Village, Ramchandrapuram Mandal, Medak District.

..... PETITIONER

AND

Circle Inspector of Police, Ramchandrapuram, Police Station,
Medak District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ or direction preferably Writ of Mandamus declaring the action of the respondent in interfering in a civil dispute in respect of the land admeasuring Ac. 22-38 gts. in Sy.No. 381 situated at Tellapur (V) Ramachandrapuram (M) Medak District, as illegal, arbitrary, and violative of principles of natural justice and consequently direct the respondent and their staff not to interfere with the civil dispute and not to harass the petitioner in any manner with regard to the above referred dispute and pass such other or further orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent: GP FOR HOME

The Court made the following:

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ORDER:

The petitioner allegedly has dispute with his sister in relation to land admeasuring Ac.22.38 gts. In Survey No.381 of Tellapur village in Ramachandrapuram Mandal of Medak District. He alleges that on 03.9.2000, the respondent summoned the petitioner and directed to deliver the possession of the land to petitioner's sister. Aggrieved by such interference in civil dispute, the present writ petition is filed.

Learned Government Pleader is not present in the Court. It is now well settled that in a dispute of civil nature, Police have no power either to register the crime or investigate the matter. This Court in **S.Masthan Saheb and another v. P.S.R. Anjaneyulu** after referring to the entire case law on the subject held as under:

> The various provisions to which a brief reference is made would show that the power of the police to collect intelligence regarding any design to commit cognizable offences and prevent commission of cognizable offences is considered to be the inherent power of the police organization. Whether or not there is a special enactment, the police are expected to perform its functions; namely, maintenance of peace and public order and prevention of cognizable offences. When all these statutes dealing with police in Andhra Pradesh deal with duty of the police relating to cognizable offences, a Police Officer would not be justified in saying that he/she is looking into a complaint made by a person which has, *ex facie*, trappings of the civil dispute. Indeed, under sub-section (1) of Section 154 of Cr.P.C, it shall be within the power and duty of the Police Officer to register only a cognizable offence. Though under Section 155 of Cr.P.C. a Police Officer can make an entry in the appropriate register about the information as to non-cognizable offence, such Police Officer shall not investigate a non-cognizable offence without the order of the Magistrate. As a necessary corollary, it must be concluded that any effort on the part of the police "to look into' any complaint by any person which does not contain allegations of commission of cognizable offences would not only violate the various provisions of the Andhra Act, as in this case, but also would violate Section 155 (2) of the Cr.P.C. Any such action would be *ex facie* illegal, whatever be the *ipsi dixit* of the police. There is no presumption in law that every rift in human relations would lead to a civil dispute and civil dispute would likely to result in clashes, resulting in offences against human body. Any such effort on the part of the police to look into the complaints regarding civil disputes is not even the part of the Code of Conduct of the Police, which was communicated by the Government of India in 1987 which reads as under:

Code of Conduct for the Police in India vide Ministry of Home Affairs Letters No.VI-24021/97/84-GPA.I, dated 4-7-1985 and 10-7-1985.

1. The Police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizens as guaranteed by it.

2. The police should not question the propriety or necessity of any law duly enacted. They should enforce the law firmly and impartially, without fear or favour, malice or vindictiveness.

3. The police should recognize and respect the limitations of their powers and functions. They should not usurp or even seem to usurp the functions of the judiciary and sit in judgement on cases to avenge individuals and punish the guilty.

4. In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.

5. The prime duty of the police is to prevent crime and disorder and the police must recognize that the test of their efficiency I the absence of both and not the visible evidence of Police action in dealing with them.

6. The police must recognize that they are members of the public, with the only difference that in the interest of the society and on its behalf they are employed to give full time attention to duties, which are normally incumbent on every citizen to perform.

7. The police should realize that the efficient performance of their duties will be dependent on the extent of read co-operation that they receive from the public. This, in turn, will depend on their ability to secure public approval of their conduct and actions and to earn aid retain public respect and confidence.

8. The police should always keep the welfare of the people in mind and be sympathetic and considerate towards them. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth or social standing.

9. The police should always place duty before self, should remain calm in the face of danger, scorn or ridicule and should be ready to sacrifice their lives in protecting those of others.

10. The police should always be courteous and well mannered; they should be dependable and impartial; they should possess dignity and courage; and should cultivate character and the trust of the people.

11. Integrity of the highest order is the fundamental basis of the prestige of the police. Recognizing this, the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizen.

12. The police should recognize that their full utility to the State is the best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to

the lawful directions of commanding ranks and absolute loyalty to the force and by keeping themselves in a state of constant training and preparedness.

13. As members of a secular, democratic State, the police should strive continually to rise above personal prejudices and promote harmony and the spirit of common brotherhood amongst all the people in India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women and disadvantaged segments of the society."

Following the same, the writ petition is disposed of, observing that unless and until the petitioner is involved in a cognizable offence, the police shall not interfere with the liberty of the petitioner.

The writ petition is, accordingly, disposed of.

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June 15, 2005. (**V.V.S.RAO,J**)

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To

1. The Circle Inspector of Police, Ramchandrapuram, Police Station,
Medak District.

2. Two CCs to the Government Pleader for Home, High Court Buildings,

Hyderabad. (OUT)

3. Two C.D. Copies.